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WESTERN DISTRICT OF LOUISIANA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

STEVEN AUBREY BURNETTE

CIVIL ACTION NO. 1:06-cv-01396

-vs-

JUDGE DRELL

U.S. BUREAU OF PRISONS, et al.

MAGISTRATE JUDGE KIRK

JUDGMENT


For the reasons stated in the Report and Recommendation of the Magistrate Judge previously filed herein (Document No. 144), and after an independent (de novo) review of the record including the written objections, and concurring with the Magistrate Judge's findings under the applicable law, this Court adopts the Report and Recommendation subject only to the modifications outlined herein.

The fault as alleged by Plaintiff in this case consists of negligent supervision claims and claims that Defendants deliberately contributed to the assault. Defendants contend all of these claims should be categorized as "failure to protect," and, thus, should be dismissed on the grounds of res judicata. We agree in part with Defendants' objections to the Report and Recommendation. Specifically, we concur that Plaintiff's claims for failing to ensure officers are in

their assigned areas and failing to monitor housing units properly are, indeed, part and parcel of the failure to protect claim barred by res judicata. Accordingly,

IT IS ORDERED that the Defendants' motion to dismiss (Document No. 127) is GRANTED IN PART AND DENIED IN PART, such that Plaintiff's failure to protect claim is DISMISSED WITH PREJUDICE. Plaintiff's other claims, including allowing gang members to roam unmonitored, and selling or making metal combination locks available to inmates for use as weapons, remain.

SIGNED on this 30th day of September, 2009, at Alexandria, Louisiana.



DEE D. DRELL
UNITED STATES DISTRICT JUDGE